

Patent Application Serial No. 09/466,046  
Reply to Office Action dated August 24, 2005

Docket No. 1232-4605

### **REMARKS**

Reconsideration in light of the foregoing amendments and following remarks is respectfully requested.

#### ***Claim Status***

Claims 41-68 are pending. Claims 45-48, 50, 56-60, 63, 64, 67 and 68 are allowed. Claims 41, 42, 49, 51, 52, 55, 61, 62, 65, and 66 are rejected. Claims 43, 44, 53, and 54 are objected to. Claims 41, 42, 51 and 52 are canceled herein without prejudice or disclaimer. Claims 43-45, 43, 49-50, 53-56, and 60-68 are amended. After entry of the foregoing amendments, claims 43-50 and 53-68 remain in this application, of which claims 43, 45, 53, 56, 61, 63, 65 and 67 are independent in form. No new matter has been added by these amendments.

#### ***Claim Objections- Allowable subject matter***

1. Claims 43, 44, 53, and 54 are objected to as containing allowable subject matter but being dependent upon a rejected base claim. These claims are indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, claims 43 and 53 are amended herein to include all of the limitations of the base claim and any intervening claims. More particularly, claims 43 and 53 are amended herein to include all of the limitations of former independent claims 41 and 51, respectively, which are herein canceled. Thus, claims 43 and 53 are believed to now be allowable. Claims 44 and 54 depend from amended independent claims 43 and 53, respectively, and are believed to be allowable for at least similar reasons.

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Applicant respectfully requests reconsideration and withdrawal of the objections to claims 43, 44, 53, and 54 as being overcome or otherwise rendered moot.

*Claim Rejections 35 U.S.C. § 103*

2. Claims 41, 49, 51, and 55 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,890,166 to Kimura et al. ("Kimura") in view of Japanese Patent Publication No. 60-220671 by Shiokawa ("Shiokawa"). Claims 42, 52, 61, 62, 65, and 66 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kimura in view of Shiokawa and further in view of Japanese Patent Publication No. 62-023025 by Aihara ("Aihara").

Applicant respectfully disagrees with the characterization of the pending claims and of the prior art in the stated rejections and respectfully traverses these rejections.

None-the-less, in order to expedite prosecution, claims 41, 42, 51 and 52 are canceled without prejudice or disclaimer, thereby rendering their rejection moot. Claim 49 is amended herein to depend from independent claim 43, which is believed to define patentable subject matter. Similarly, claim 55 is amended herein to depend from independent claim 53, which is also believed to define patentable subject matter.

Independent claim 61 is amended herein to recite "An image capture apparatus comprising: an image capture unit adapted to capture an image using an image pickup element; and a switch adapted to instruct the image capture apparatus to start a recording process of recording a captured image to a recording medium, wherein the image capture apparatus is capable of determining whether to issue a warning to a user or not using (a) a first exposure value indicating an exposure of an image captured before the switch is operated, (b) a second exposure value indicating an exposure of an image captured after the switch is operated, (c) a

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first white balance value indicating a white balance of an image captured before the switch is operated, and (d) a second white balance value indicating a white balance of an image captured after the switch is operated.” Independent claim 65 is similarly amended herein.

Neither Kimura, Shiokawa, nor Aihara, taken individually or in combination, disclose, teach, or suggest at least the foregoing claimed features as recited in amended claims 61 and 65, and thus do not anticipate nor render obvious the invention as claimed.

Independent claims 61 and 65 are thus believed to define patentable subject matter. Claims 62 and 66 depend from amended independent claims 61 and 65, respectfully, and are believed to define patentable subject matter for at least similar reasons.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of the foregoing claims as they are either overcome or otherwise rendered moot.

Claims 45, 56, 63 and 67 are amended to clarify the claimed invention and Applicant does not believe these amendments affect the patentability or allowability of these claims.

### **CONCLUSION**

In view of the foregoing, Applicant submits that claim 43-50 and 53-68 as herein presented are allowable over the prior art of record, taken alone or in combination. Applicant further submits that the application is hereby placed in condition for allowance which action is earnestly solicited.

### **AUTHORIZATION**

While the petitioned extension of time is believed sufficient, should a further extension of time be required to render this filing timely, such extension is hereby petitioned, and

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the Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this Amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-4605.

In the event that a telephone conference would facilitate prosecution of the instant application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,  
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